

B227414

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA  
SECOND APPELLATE DISTRICT  
DIVISION 4

ELFEGO RODRIGUEZ ET AL.,  
*Plaintiffs and Appellants,*

v.

BURBANK POLICE DEPARTMENT ET AL.,  
*Defendants and Respondents.*

Appeal from Superior Court of Los Angeles County, Department 37  
The Honorable Joanne O'Donnell, Telephone: (213) 974-5649  
LASC Case No. BC 414602

**[PROPOSED] ORDER RE: MOTION TO TAKE JUDICIAL  
NOTICE OF (1) PLAINTIFF AND APPELLANT ELFEGO  
RODRIGUEZ'S COMPLAINT FILED IN UNITED STATES  
DISTRICT COURT, CENTRAL DISTRICT, CASE NO. CV11-04858-  
ODW-PJWx ; (2) DECLARATION OF SERGIO BENT FILED IN  
THAT SAME LAWSUIT; (3) MAY 18, 2011 MINUTE ORDER  
GRANTING SUMMARY JUDGMENT AGAINST PLAINTIFF  
OMAR RODRIGUEZ**

MITCHELL SILBERBERG & KNUPP LLP  
Lawrence A. Michaels (State Bar No. 107260), lam@msk.com  
Veronica T. von Grabow (State Bar No. 259859), vtv@msk.com  
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09/02/11

BALLARD, ROSENBERG, GOLPER & SAVITT LLP  
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CITY ATTORNEY'S OFFICE – CITY OF BURBANK  
Carol A. Humiston (SBN 115592), chumiston@ci.burbank.ca.us  
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Facsimile: (818) 238-5724

Attorneys for Defendant and Respondent  
CITY OF BURBANK, including the POLICE DEPARTMENT OF THE  
CITY OF BURBANK (erroneously sued as an independent entity named  
“BURBANK POLICE DEPARTMENT”)

**[PROPOSED] ORDER**

The Court grants the motion of Defendant and Respondent City of Burbank to take judicial notice of (1) Plaintiff and Appellant Elfego Rodriguez's Complaint filed in United States District Court, Central District, Case No. CV11-04858-ODW ; and (2) a July 20, 2011 declaration of Sergio Bent filed in that same lawsuit.

The Court thereby takes judicial notice of:

(1) Rodriguez's "Complaint For Discriminatory And Retaliatory Discharge From Employment" filed in United States District Court, Central District of California, Case No. CV11-04858-ODW; and

(2) the July 20, 2011 declaration of Sergio Bent and accompanying exhibits filed in that same lawsuit;

(3) the May 18, 2011 minute order granting summary judgment against Plaintiff Omar Rodriguez in Los Angeles Superior Court Case No. BC414602.

SO ORDERED.

Dated: \_\_\_\_\_, 2011

\_\_\_\_\_  
Presiding Judge

**PROOF OF SERVICE**

42729-00001

*Elfego vs. City of Burbank* – Court of Appeal No. B227414  
Appeal from *Rodriguez, et al. vs. Burbank Police Department, et al.* — LASC Case No. BC414602

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is Mitchell Silberberg & Knupp LLP, 11377 West Olympic Boulevard, Los Angeles, California 90064-1683.

On September 2, 2011, I served a copy of the foregoing document(s) described as:

1. **RESPONDENT'S BRIEF**
2. **MOTION TO TAKE JUDICIAL NOTICE OF (1) PLAINTIFF AND APPELLANT ELFEGO RODRIGUEZ'S COMPLAINT FILED IN UNITED STATES DISTRICT COURT, CENTRAL DISTRICT, CASE NO. CV11-04858-ODW-PJWx ; (2) DECLARATION OF SERGIO BENT FILED IN THAT SAME LAWSUIT; (3) MAY 18, 2011 MINUTE ORDER GRANTING SUMMARY JUDGMENT AGAINST PLAINTIFF OMAR RODRIGUEZ**
3. **[PROPOSED] ORDER RE: MOTION TO TAKE JUDICIAL NOTICE OF (1) PLAINTIFF AND APPELLANT ELFEGO RODRIGUEZ'S COMPLAINT FILED IN UNITED STATES DISTRICT COURT, CENTRAL DISTRICT, CASE NO. CV11-04858-ODW-PJWx ; (2) DECLARATION OF SERGIO BENT FILED IN THAT SAME LAWSUIT; (3) MAY 18, 2011 MINUTE ORDER GRANTING SUMMARY JUDGMENT AGAINST PLAINTIFF OMAR RODRIGUEZ**

on the interested parties in this action at their last known address as set forth below by taking the action described below:

Los Angeles Superior Court, Department 37 The Honorable Joanne O'Donnell 111 North Hill St. Los Angeles, CA 90012 Tel: (213) 974-5649
---

Solomon E. Gresen, Esq., <a href="mailto:seg@rglawyers.com">seg@rglawyers.com</a> Steven V. Rheuban, Esq., <a href="mailto:svr@rglawyers.com">svr@rglawyers.com</a> Law Offices of Rheuban & Gresen 15910 Ventura Boulevard, Suite 1610 Encino, CA 91436 T: (818) 815-2727 F: (818) 815-2737
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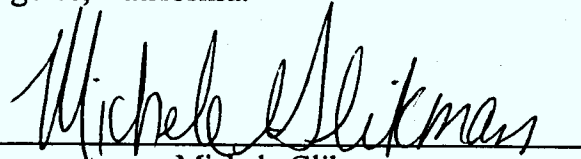
*Attorneys for Plaintiffs Omar Rodriguez, Cindy Guillen-Gomez, Steve Karagiosian, Elfego Rodriguez, and Jamal Childs*

Kenneth C. Yuwiler, [kyuwiler@shslaborlaw.com](mailto:kyuwiler@shslaborlaw.com)  
Silver Hadden Silver Wexler & Levine  
1428 Second Street  
Santa Monica, CA 90401  
T: (310) 393-1486  
F: (310) 395-5801  
*Attorneys for Plaintiff and Cross-Defendant Omar Rodriguez*

☒ **BY PERSONAL DELIVERY:** I placed the above-mentioned document(s) in sealed envelope(s), and caused personal delivery by of the document(s) listed above to the person(s) at the address(es) set forth above.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

Executed on September 2, 2011 at Los Angeles, California.

  
Michele Glikman

Case No. B227414

2011 SEP -7 PM 3:46

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LASC Case No. BC 414602

**AMENDED PROOF OF SERVICE FOR SUPERIOR COURT**

MITCHELL SILBERBERG & KNUPP LLP  
Lawrence A. Michaels (State Bar No. 107260), lam@msk.com  
Veronica T. von Grabow (State Bar No. 259859), vtv@msk.com  
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POLICE DEPARTMENT OF THE CITY OF BURBANK  
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**PROOF OF SERVICE**

42729-00001

*Elfego vs. City of Burbank – Court of Appeal No. B227414*  
*Appeal from Rodriguez, et al. vs. Burbank Police Department, et al. — LASC Case No. BC414602*

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is Mitchell Silberberg & Knupp LLP, 11377 West Olympic Boulevard, Los Angeles, California 90064-1683.

On September 2, 2011, I served a copy of the foregoing document(s) described as:

**1. RESPONDENT'S BRIEF**

**2. MOTION TO TAKE JUDICIAL NOTICE OF (1) PLAINTIFF AND APPELLANT ELFEGO RODRIGUEZ'S COMPLAINT FILED IN UNITED STATES DISTRICT COURT, CENTRAL DISTRICT, CASE NO. CV11-04858-ODW-PJWx ; (2) DECLARATION OF SERGIO BENT FILED IN THAT SAME LAWSUIT; (3) MAY 18, 2011 MINUTE ORDER GRANTING SUMMARY JUDGMENT AGAINST PLAINTIFF OMAR RODRIGUEZ**

**3. [PROPOSED] ORDER RE: MOTION TO TAKE JUDICIAL NOTICE OF (1) PLAINTIFF AND APPELLANT ELFEGO RODRIGUEZ'S COMPLAINT FILED IN UNITED STATES DISTRICT COURT, CENTRAL DISTRICT, CASE NO. CV11-04858-ODW-PJWx ; (2) DECLARATION OF SERGIO BENT FILED IN THAT SAME LAWSUIT; (3) MAY 18, 2011 MINUTE ORDER GRANTING SUMMARY JUDGMENT AGAINST PLAINTIFF OMAR RODRIGUEZ**

on the interested parties in this action at their last known address as set forth below by taking the action described below:

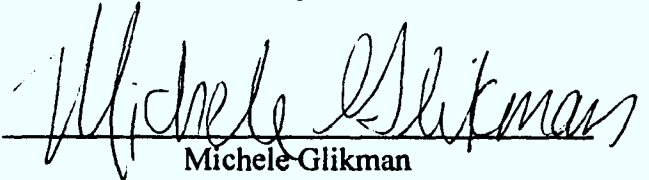
Clerk of the Court Los Angeles County Superior Court /Central District 111 North Hill St. Los Angeles, CA 90012
--

☒ **BY OVERNIGHT MAIL:** I placed the above-mentioned document(s) in sealed envelope(s) designated by the carrier, with delivery fees provided for, and addressed as set forth above, and deposited the above-described document(s) with FedEx in the ordinary course of business, by depositing the document(s) in a facility regularly



maintained by the carrier or delivering the document(s) to an authorized driver for the carrier.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on September 2, 2011, at Los Angeles, California.

  
Michele Glikman

Case No. B227414

CLERK'S OFFICE  
COURT OF APPEAL SECOND DIS  
RECEIVED

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JOSEPH A. LANE CLERK

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**PROOFS OF SERVICE BY MESSENGER**

MITCHELL SILBERBERG & KNUPP LLP  
Lawrence A. Michaels (State Bar No. 107260), lam@msk.com  
Veronica T. von Grabow (State Bar No. 259859), vtv@msk.com  
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**PROOF OF SERVICE**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the county of Los Angeles, State of California. I am over the age of 18, and not a party to the within action; my business address is 1517 West Beverly Boulevard, Los Angeles, California 90026.

On September 2, 2011, I served the foregoing document(s) described as

**1. RESPONDENT'S BRIEF**

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which was enclosed in sealed envelopes addressed as follows, and taking the action described below:

Solomon E. Gresen, Esq.,  
Steven V. Rheuban, Esq.,  
Law Offices of Rheuban & Gresen  
15910 Ventura Boulevard, Suite 1610  
Encino, CA 91436  
T: (818) 815-2727  
F: (818) 815-2737  
*Attorneys for Plaintiffs Omar Rodriguez,  
Cindy Guillen-Gomez, Steve Karagiosian,  
Elfego Rodriguez, and Jamal Childs*

☒ **BY PERSONAL SERVICE:** I hand delivered such envelope(s):

- ☐ to the addressee(s);
- ☒ to the receptionist/clerk/secretary in the office(s) of the addressee(s).
- ☐ by leaving the envelope in a conspicuous place at the office of the addressee(s) between the hours of 9:00 a.m. and 5:00 p.m.

I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on September 2, 2011, at Los Angeles, California.

ANDY GOVKASIAN  
Printed Name

  
Signature

**PROOF OF SERVICE**

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

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*Attorneys for Plaintiff and Cross-Defendant  
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I declare under penalty of perjury under the laws of the State of California that the above is true and correct. Executed on September 2, 2011, at Los Angeles, California.

ARNEL BARTOLOME

Printed Name



Signature